

MEMORANDUM OF UNDERSTANDING

Utah Department of Transportation and Federal Highway Administration

Contract and Modification Requests & Consultant Selection

Revised January 21, 2009

The Utah Department of Transportation (UDOT) and Federal Highway Administration (FHWA) are by this Memorandum of Understanding (MOU) agreeing to the following process for handling consultant selection and any new proposed contracts, and modifications to contracts, for engineering services through the General Engineering Services and Local Government Pool of Consultants (Pool), Streamlined Request for Qualifications (Streamlined RFQ), Request for Letter of Interest (RLOI), Standard Request for Qualifications (Standard RFQ), and Local Government Engineer of Record (EOR). The Standard RFQ, Streamlined RFQ, and RLOI selection processes as a group are abbreviated in this MOU as RFQ.

Pool Caps

There are two caps to consider when selecting a consultant for a project through the Pool.

1) Pool Contract-Cap

When selecting a consultant through the Pool, there is a cap for any contract, including any modifications, for both State/Federal and Local Government projects.

For Pool period **July 1, 2007 through June 30, 2010**: The contract-cap is **\$600,000**.

If a contract request exceeds \$450,000, Consultant Services highly recommends an RFQ selection process be used instead of selecting through the Pool.

2) Pool Consultant-Cap

Each consultant that is selected as qualified for engineering services work and is placed on the list of pool consultants has a cumulative cap on the amount of work they may be selected for during the three-year period of the Pool.

For Pool period **July 1, 2007 through June 30, 2010**: The consultant-caps are **\$3,750,000** for State/Federal Pool projects and **\$2,700,000** for Local Government Pool projects.

Request for Qualifications

A consultant selected through an RFQ process does not have a dollar cap, the range is **\$200,000 to unlimited** within the fully disclosed Scope of Work in the RFQ. If the requester has justification for using the RFQ selection process for a contract under \$200,000, the requester may apply for a waiver from the Consultant Services Manager.

All Environmental Assessments and Environmental Impact Statements are required to go through a project-specific RFQ consultant selection process. A separate consultant selection is required for environmental and design work except when the environmental document is a Categorical Exclusion. Therefore, two separate contracts will be written by Consultant Services for environmental and design work. In accordance with 23 U.S.C. 112(g), FHWA and UDOT will allow the same consultant, if qualified, to perform both the environmental and design work. On projects where the environmental Categorical Exclusion and design services are procured under a single contract, the UDOT will conduct a review that assesses the objectivity of the environmental analysis.

Local Government

Engineer of Record

A consultant selected through an Engineer of Record Request for Qualifications (EOR RFQ) process does not have a dollar cap; the range is **\$0 to unlimited** within the fully disclosed Scope of the RFQ. There are currently five work areas that a Local Government Agency may designate an EOR for Federally-Aided Projects: Bridge Design, Environmental Categorical Exclusion, Utility, Preconstruction, and Construction Engineering Management. Local Government EOR RFQ shall be reviewed to confirm expertise for that type of work. The Local Government Agency has the right to restrict Scope, Schedule, and Budget of each project RFQ.

Local Governments are required on federally funded projects to comply with the UDOT consultant selection process. UDOT requires Local Governments advertise their federally funded projects through Consultant Services. Utilizing Consultant Services will prevent the project from losing funding because the UDOT selection process was not followed. Consultant Services has prepared a DRAFT RFQ for Engineer of Record for use on all EOR selections.

All Local Government Environmental Assessments and Environmental Impact Statements are required to go through a project-specific RFQ consultant selection process, not through an EOR selection.

UDOT will establish a quality improvement team (QIT) to evaluate and revise the current EOR process. This MOU will be revised based on the QIT's recommendations.

Request for Qualifications

In order to qualify for Federal-aid funds for a Local-Administered Project-Specific RFQ, the local agency must comply with the advertisement and selection process as noted in the Consultant Services Manual of Instructions. This process must be documented and approved by the Consultant Services Manager or designated Local Government Contract Administrator. This requirement is part of the FHWA/UDOT Oversight Agreement and may also be found in 23CFR172.

A consultant selected through a Local Government RFQ process does not have a dollar cap; the range is **\$200,000 to unlimited** within the fully disclosed Scope of RFQ. If the requester has justification for using the RFQ selection process for a contract under \$200,000, the requester may apply for a waiver from the Consultant Services Manager.

Waiver Requirement (Less Than Three Statements of Qualifications Received)

When Consultant Services advertises an RFQ on a federal-aid project and receives less than the prescribed minimum of three Statements of Qualifications (SOQ's) or Letters of Interest (LOI's) in response, Consultant Services will determine whether to pursue a waiver to proceed with the consultant selection under the current RFQ based on the following.

If Consultant Services only receives one SOQ/LOI, the current RFQ selection process in most cases will be canceled and the RFQ for the project may be re-advertised. Only in unusual circumstances would Consultant Services determine it is appropriate to pursue a waiver in this case.

If Consultant Services receives two SOQ's/LOI's, Consultant Services will consider the competition issue when determining whether to pursue a waiver.

UDOT Waiver Required

If the project is for an Environmental Assessment Document, Consultant Services will request a waiver from the Director of Environmental Services or designee prior to proceeding with the consultant selection process.

If the project is for less than \$1,000,000 based on the Independent Cost Estimate (ICE) and is for other than an Environmental Assessment or Environmental Impact Statement such as design, Consultant Services will request a waiver from the Director of Engineering Services & Bridge Design or designee prior to proceeding with the consultant selection process.

FHWA Waiver Required

If the project is for \$1,000,000 or more based on the ICE or if the project is for an Environmental Impact Statement, Consultant Services will request a waiver from the FHWA Project Delivery Team Leader or designee and FHWA Area Engineer prior to proceeding with the consultant selection process.

Environmental Projects

If a project is for the preparation of an Environmental Assessment or an Environmental Impact Statement, it is required for UDOT and Local Government Project Managers to proceed with an RFQ selection rather than selecting a consultant from the Pool. The reason for this is the nature of environmental projects. Environmental projects must have the latitude to develop or expand based on information discovered during the environmental process and should not be limited by arbitrary constraints. An RFQ selection allows Selection Teams the important opportunity to evaluate consultants' proposed project team and/or approach to the project during the selection process. The only exception to proceeding with an RFQ selection is if the Director of Environmental Services or designee grants a waiver in writing for a small Environmental

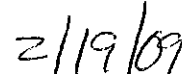
Assessment to be selected through the Pool. In this case, Project Managers will be required to submit the approved written waiver to Consultant Services along with the financial screening and contract request.

Approval of Memorandum of Understanding

Utah Department of Transportation

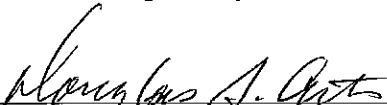


Stan Burns, P.E.
Director of Engineering Services & Bridge Design

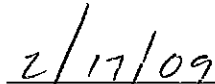


Date

Federal Highway Administration



Douglas A. Atkin, P.E.
Project Delivery Team Leader



Date

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UDOT Project Managers/Region Directors/Technicians
Consultant Services Website – Pool Contracting